

1 David N. Chandler, Sr. SBN 60780
David N. Chandler, Jr. SBN 235427
2 DAVID N. CHANDLER, p.c.
1747 Fourth Street
3 Santa Rosa, CA 95404
Telephone: (707) 528-4331
4

Attorneys for Debtors
5

6 UNITED STATES BANKRUPTCY COURT
7 NORTHERN DISTRICT OF CALIFORNIA

8 IN RE: CASE No. 09-12892

CHAPTER 11

9 BETH WAYNE, and
10 DAVID R. WAYNE,

11 DEBTORS. /

MOTION TO DETERMINE SECURED
STATUS; DECLARATION OF BETH
WAYNE; MEMORANDUM OF POINTS
AND AUTHORITIES

Date: February 3, 2010

Time: 9:00 a.m.

Place: 5th and H Streets
Eureka, CA

14 TO: HONORABLE ALAN JAROSLOVSKY, UNITED STATES BANKRUPTCY JUDGE:

15 BETH WAYNE AND DAVID R. WAYNE, Debtors herein, hereby move the
16 above entitled Court for an Order Determining the Secured Status of
17 the allowed claim of Bank of America (137 14th St., Eureka, CA)
18 pursuant to Section 506 of the Code and the terms of the Chapter 11
19 Plan.

20 Said Motion is made on the grounds that the value of the
21 collateral is less than the allowed claim of such holder and that
22 the claim is secured as to the extent of the value of said
23 collateral. Said allowed claim is unsecured as to the balance.

24 Said Motion is based hereon, on the appended Declaration of
25 Beth Wayne and on the Memorandum of Points and Authorities appended
26 hereto.

27 Dated: 1/6/10

DAVID N. CHANDLER, p.c.

28 By: /s/ David N. Chandler

DAVID N. CHANDLER,
Attorney for Debtors

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

5
6
7
8
9
0
1
2
3
4
5
6
7
8

7
8
9
0
1
2
3
4
5
6
7
8

9
0
1
2
3
4
5
6
7
8

2
3
4
5
6
7
8

3
4
5
6
7
8

7
8

1 Section 506(d).

2 3. Section 506(a) bifurcates a debt into secured and
3 unsecured components. The secured component is the secured debt.
4 In re Glenn, 786 F.2d 1144 (9th Cir. 1986).

5 4. The Chapter 11 Plan provides that the claim of Bank of
6 America will be the subject of a Motion to Determine Secured Status.

7 5. It is respectfully submitted that the value of the
8 collateral which is collateral for the claimholder is as set forth
9 herein and that the claimant's allowable claim is wholly unsecured.

10 6. It is submitted that the collateral be valued as herein
11 provided and that the secured component of the claim be determined.

12 Dated: 1/6/10

Respectfully submitted,

13 DAVID N. CHANDLER, p.c.

14
15 By: /s/ David N. Chandler

16 DAVID N. CHANDLER,
Attorney for Debtors